

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

ZACHIUS M. STEVENS,  
Institutional ID No. 02476326

Plaintiff,

v.

No. 5:23-CV-00285-H

SHERIFF KELLY S. ROWE, *et al.*,

Defendants.

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation (FCR) in this case. No objections were filed. The District Court made an independent examination of the record in this case and reviewed the Magistrate Judge's report for plain error. Finding none, the Court accepts and adopts the findings, conclusions, and recommendation of the Magistrate Judge with one modification, as explained below.

The FCR concluded that Plaintiff's Equal Protection claim was deficient because he did not provide sufficient facts to support his claim that Defendants discriminated against him on the basis of his race. *See* Dkt. No. 22 at 8. Specifically, the FCR concluded that Plaintiff "has not shown that the Officer Defendants treated him differently than they treated prisoners of other races such that [Plaintiff] was denied equal protection." *Id.* However, the FCR also found that Plaintiff could conceivably cure the deficiencies with leave to amend. *Id.* at 18. Thus, the Magistrate Judge recommended that Plaintiff's Equal Protection claim be dismissed without prejudice and that he be given leave to amend the claim within 20 days of the Court's ruling on the FCR. *See* Dkt. No. 22 at 18. The Court

notes, however, that Plaintiff does not appear to be interested in curing those deficiencies in order to pursue his Equal Protection claims. Indeed, Plaintiff had an opportunity to cure the deficiencies before entry of the FCR, in response to Defendants' motion to dismiss. But he did not attempt to do so. And he was informed of his right to object to the Magistrate Judge's FCR, but more than three months have passed, and Plaintiff has not made any attempt to object to the findings or amend his deficient claims. Thus, the Court finds that Plaintiff had ample time and multiple opportunities to fix his pleadings if he intended to pursue his Equal Protection claims. He failed to do so, so the Court finds that the Equal Protection claims should also be dismissed with prejudice for failure to state a claim.

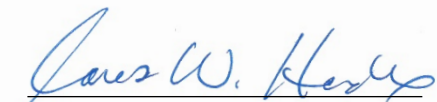
The Court therefore grants Defendants' Motions to Dismiss Pursuant to Rule 12 of the Federal Rules of Civil Procedure, Dkt. Nos. 16, 17, and dismisses Plaintiff's complaint and all claims alleged in it with prejudice for failure to state a claim. The Court will enter judgment accordingly.

All relief not expressly granted, and any pending motions are denied.

Judgment will be entered accordingly.

So ordered.

Dated September 26, 2024.



James Wesley Hendrix  
United States District Judge